



Frequently Asked Questions

Arizona's General Permit for Stormwater Discharges Associated with Industrial Activities (Multi-sector General Permit – 2010 MSGP)

Q: What SIC code should I use for the activities at my facility? How do I obtain that information?

It is ultimately the operator's/ permittee's responsibility to determine whether the facility should obtain coverage under the MSGP 2010. At the present time, the Department of Labor's Standard Industrial Classification (SIC) code book remains the best source for the different sector descriptions and for determining your facility's SIC code. The MSGP's sector descriptions are based on SIC codes and Industrial Activity Codes, which are consistent with the definition of stormwater discharge associated with industrial activity at 40 CFR 122.26(b)(14)(i-ix, xi). Appendix C of the non-mining MSGP contains all of the 1987 SIC codes that are covered by the stormwater regulations, along with some specific information on each sector.

A complete list of SIC Codes (and conversions from the newer North American Industry Classification System" (NAICS)) can be obtained from the Internet at

<http://www.osha.gov/pls/imis/sicsearch.html> or in paper form from various locations in the document titled *Handbook of Standard Industrial Classifications*, Office of Management and Budget, 1987.

Much of the information in the 1987 Handbook can be obtained from the Internet at

http://www.osha.gov/pls/imis/sic_manual.html.

Conversions from the NAICS can be obtained from the Internet at

www.census.gov/epcd/www/naics.html.

Business and industry now use the NAICS codes, which replaced the SIC codes in 1997. However, there is not a one-to-one correspondence between the two systems. USEPA therefore, generated a comprehensive list of regulated codes for both systems and the list is available online in their proposed MSGP 2013, Appendix N:

http://www.epa.gov/npdes/pubs/msgp2013_proposedpermitapp.pdf

Q: What about a facility that is owned by the government, e.g., a county, state, etc.? I do not see a SIC code for government facilities in Table C-1 of the MSGP. Does that mean coverage under the MSGP is not required?

A: No. Industrial activities identified under 40 CFR 122.26(b)(14)(i)-(xi) that Federal, State, or Municipal governments own or operate are subject to the regulation and are required to obtain coverage under the MSGP.

The government SIC codes do not "best describe" the industrial activity / operation being performed and are therefore not used for determining permit coverage. According to the

definition of stormwater associated with industrial activity at 40 CFR 122.26(b)(14), industrial facilities includes industrial facilities that are federally, State, or municipally owned or operated that meet the description of the facilities listed in paragraphs (b)(14)(i) through (xi) of the section.

Q: How do I fill out a 2010 MSGP Notice of Intent (NOI) online?

An operator may access the SMART NOI System (payment by Visa or MasterCard) and file an electronic NOI using this link: <https://az.gov/app/smartnoi/>

Or an operator may choose to fill out a paper NOI (payment by check or money order required), which can be obtained at this link:

<http://www.azdeq.gov/envIRON/water/permits/download/2010/122010b.pdf>

Q: How do I complete the NOI Certification?

To avoid possible delays in obtaining permit coverage, ADEQ encourages applicants to create and utilize the electronic signature feature on the SMART NOI website (<https://az.gov/app/smartnoi/>). Please note: operators must set up an e-signature account before completing their first NOI.

If the NOI is submitted online and signed later, a wet signature is required to comply with USEPA's Cross-Media Electronic Reporting Regulation (CROMERR). The original, signed NOI must be submitted to ADEQ (mail, delivery, drop off, etc.). The Department can no longer accept NOI forms via facsimile or scanned documents. For additional information about CROMERR, please visit USEPA's website at: <http://www.epa.gov/cromerr/>

ADEQ's 2010 MSGP Fact Sheet provides additional information about obtaining an authorization to discharge under the MSGP; see Section IV.C, p. 12 – 14.

Q: How can I obtain an electronic signature account?

Operators should use ADEQ's SMART NOI system (<https://az.gov/app/smartnoi/>) to create an electronic signature account. After completing the required information to establish an account, click "Create Account." The operator will receive an email indicating the request is being processed. To complete the process, operators must provide their title. Only persons meeting the signatory requirements of Appendix B, Subsection 9(a) (a responsible corporate officer) of the permit can be authorized to sign an NOI.

Q: I may need to revise my MSGP Notice of Intent (NOI). Which revisions are allowed and which revisions are not allowed?

ADEQ allows revisions to a MSGP NOI to update some information such as: a mailing address, changing the name of the contact person, or revising the location of the SWPPP or SWPPP contact person.

Revisions that are not accepted include changing the latitude and longitude of the facility's outfall or changing the sector designation. Also, a change or transfer of an NOI from one permittee to another is not allowed. A change in permittee requires that the new facility operator submit an NOI and obtain permit coverage (*i.e.*, a new authorization number). The existing permittee must submit a Notice of Termination (NOT) within 30 calendar days after a new owner or operator has assumed ownership or responsibility for the facility (see A.A.C. R18-9-C904). (*Note:* additional information about NOTs is found in Part 1.4 of either MSGP and Section IV.D, p. 14 – 15, of the 2010 MSGP Fact Sheet.)

ADEQ's SMART NOI System cannot process a revised NOI, because an original signature is required. Therefore, revised NOIs must be mailed or delivered to ADEQ. A fillable PDF of the NOI may be downloaded and printed from this link:

<http://www.azdeq.gov/enviro/water/permits/download/2010/122010b.pdf>

There is no fee for submitting a revised NOI.

Q: When are the first Annual Report and DMR due? Are these reports only required for facilities that discharge to an impaired or outstanding Arizona water? The permit language seems to say that a facility that meets the following criteria would not have to submit a DMR to ADEQ: 1) the receiving water isn't impaired or classified as an OAW or located within 2.5 miles of an impaired water or OAW; 2) the sector does not have benchmark parameters or effluent limitations guidelines (Sector P, for example).

Is this correct or are all permittees required to submit the DMR to ADEQ regardless?

A: The DMR must be completed by facility operators and submitted to ADEQ by July 15 each year (first DMR due 2012). Of course, if there are no benchmarks to monitor for or effluent limitation guidelines to monitor and comply with, then no DMR is required. There are 9 sectors in this situation in the Non-mining MSGP.

The Annual Report form, however, must be completed by all facility operators, but submitted to ADEQ only if discharging to an impaired or outstanding Arizona water (or discharging to a tributary within 2.5 miles). This is different from the EPA MSGP 2008, which requires all facilities to file an Annual Report.

The two forms are not directly dependent on each other. In other words, it's possible that a discharger may have no analytical monitoring requirements, but the facility discharges to an impaired water (or within 2.5 miles). In this case, no DMR is required but the operator must submit an Annual Report to ADEQ every year. Be advised also that all dischargers to impaired & OAWs (or within 2.5 miles) must submit SWPPPs with the NOI. Therefore, a Sector P facility that discharges to an impaired or OAW (or within 2.5 miles) must submit the SWPPP with the NOI and must submit an annual report by July 15 every year. There are no benchmarks for Sector P, therefore no DMR is required.

Q: What is included in the yearly DMR submittal?

A: Benchmark, effluent limitation, impaired or other additional monitoring as determined by ADEQ (see Part 6.2). The DMR contains a column and key to identify the type of monitoring.

Q: When does the MSGP 2010 annual cycle for the comprehensive facility inspection (CFI) begin and end and who is required to submit an annual report?

A: The permit expires at midnight, January 31, 2016.

The permit's CFI cycle is as follows:

You must conduct annual comprehensive facility inspections while you are covered under this permit. Annual, as defined in Part 4, means once per calendar year, but not within 6 months of the previous inspection for the facility throughout the duration of permit coverage. The annual CFIs must be conducted according to the following schedule:

First year: Date of coverage, 2011 – May 31, 2012

Year 2: June 1, 2012 – May 31, 2013

Year 3: June 1, 2013 – May 31, 2014

Year 4: June 1, 2014 – May 31, 2015

Year 5: June 1, 2015 – May 31, 2016

If the facility's coverage is administratively continued after the expiration date of this permit (January 31, 2016), you must continue to perform inspections annually until your facility is no longer covered by this permit. (Part 4.3.1)

Only facilities with discharges to an impaired or outstanding Arizona water are required to submit their Annual Reports of the CFI to the Department. These reports must be filed by June 15 each year. (Part 7.2).

Q: My facility has a drywell, and I plan to design my site so that it will never discharge; do I still need coverage under the Non-mining MSGP 2010?

Q: Many of my clients' facilities that are subject to the MSGP 2010 direct some or all of their stormwater to drywells or retention basins on-site. Except under extreme flood conditions, all stormwater is retained on-site and infiltrated to ground. In these instances, how are "outfalls" defined? Is each drywell considered to be an outfall? Or are outfalls only defined if there is discharge from the facility to the surface? What is the role of on-site retention basins and drywells in the MSGP 2010 and is there a need for coverage under this permit if using these control measures?

Q: Is a facility that has a stormwater detention basin onsite required to apply for coverage under the MSGP? All stormwater on the facility property drains to the detention basin, which either evaporates or infiltrates, and there is no surface flow offsite.

A: There are definitions for "point source" and "discharge" in 40 CFR 122.2, but none for "outfall". Drywells and on-site retention basins are not "outfalls" in the AZPDES stormwater program. The "outfall" is the point at which stormwater discharges from the property.

Although drywells are designed and constructed specifically for the disposal of stormwater ONLY (i.e., stormwater runoff without any pollutants), they are regulated, in part, by the aquifer protection program (APP), because drywells can be a direct conduit for pollutants to groundwater. Hence, facility operators must be extremely careful about what they allow to drain to the drywell (and hence, discharge to the aquifer). Facility operators with drywells are advised to construct a permanent engineered barrier to isolate the drywell from industrial stormwater (i.e., areas of industrial activity). Parking areas, greenbelt areas, landscaped areas, etc. may not need these barriers. Depending on the areas drained by the drywell(s), a failure to isolate the drywell from industrial stormwater could invite additional scrutiny under the APP program that could otherwise be avoided.

The same APP concerns may also apply to on-site retention basins if they are receiving all the pollutants and stormwater drainage from areas of actual industrial activity. If the site has coverage under the MSGP, ADEQ would naturally expect the typical control measures outlined throughout the permit (especially Part 2.1.1) to be in place.

On-site retention basins are control measures designed to manage stormwater flows from a facility, but the Clean Water Act makes no allowances for any sizes that would exclude a site from needing coverage under the MSGP. In other words, there are no provisions in statutes, rules, or the permits for exempting large storm events or uncontrollable runoff from stormwater permitting requirements. ADEQ maintains that, given a storm event of sufficient volume or multiple storm events in succession, the facility will discharge.

Obtaining permit coverage ensures stormwater discharges from the facility are permitted, as required by Arizona's statutes and rules (it is noted there is nearly always some potential for stormwater discharges from almost any site). Visual assessments should be performed at or near the outfall, if possible. Where required (depending on the sector), analytical monitoring samples must be collected at the outfall and analyzed for the required parameters.

Ultimately, the facility operator must determine whether or not stormwater will flow off the site. However, ADEQ may determine otherwise, such as when a site inspection is performed.

In consideration of the above, ADEQ recommends that, even if retention basins and / or drywells are being used to reduce or eliminate offsite stormwater discharges, they should implement the appropriate stormwater pollution controls and best management practices (i.e., the control measures of the MSGP) to minimize the discharge of pollutants to drywells and retention basins. To this end, an operator is usually better advised to have coverage under the MSGP 2010.

Q: At what point does an inactive, closed, or capped landfill cease being an industrial activity and subject to the requirements of the MSGP?

A: Section 8.L.2 refers to landfills that receive or have received industrial waste at any time during their operating history. Once the landfill becomes inactive or is closed, MSGP coverage can be terminated when the land use has been altered such that there no longer are stormwater discharges associated with industrial activity (i.e., there is no exposure of significant materials to stormwater at the site).

Any landfill, active, inactive or closed, must apply for coverage under the Non-mining MSGP 2010 if it receives, or has received, wastes from the industrial facilities identified under 122.26(b)(14)(i)-(xi). To the extent that control measures and best management practices address stormwater, the permit may incorporate those control measures.

An inactive, closed or capped landfill is no longer subject to stormwater permit application requirements when the land use has been altered such that there is no exposure of significant materials to stormwater at the site. For example, if an impervious surface (such as a parking lot or shopping center) now covers the closed landfill, stormwater discharges from the area are no longer associated with the previous landfill activity.

ADEQ has developed a certification statement form for this purpose. Landfill owners or operators must use this certification statement in lieu of filing an NOI and NOT for closed Sector L facilities that never received coverage under the MSGP 2000 or MSGP 2010. A fillable PDF of the Sector L Closure Certification form may be downloaded and printed from this link: <http://www.azdeq.gov/envIRON/water/permits/download/2010/slcc.pdf>

Q: What is a co-permittee??

A: 122.26(b) Definitions. (1) Co-permittee means a permittee to a NPDES permit that is only responsible for permit conditions relating to the discharge for which it is operator.

Q: Do solar power plants need MSGP coverage under Sector O?

A: If electricity is generated by burning a fossil fuel or using nuclear fuel to create steam, which drives turbines to generate electricity, then coverage under the MSGP 2010 is needed. In Sector O (Steam Electric Generating Facilities), the single biggest source of pollutants typically is coal pile runoff (hence the ELG listing).

Solar generating stations use mirrors or photovoltaic cells (solar panels) to generate electricity. If a solar facility that uses mirrors to heat water also has a fossil fuel source back up, this facility would be covered by Sector O. But, if this mirror facility has no fossil fuel back up, it does not have a stormwater discharge associated with industrial activity, hence, no MSGP coverage is needed. Likewise, a photovoltaic array converts the sun's energy directly to electricity (no fossil fuel is needed for heat to generate steam) and therefore is not a facility that needs coverage under the MSGP 2010 (Sector O or otherwise).

In short, steam electric generating power plants must have permit coverage under Sector O if they have a fossil fuel or nuclear fuel source.

However, during construction, any power plant facility would need coverage under the construction stormwater general permit.

Note: USEPA's draft 2013 MSGP now recognizes that geothermal power generation should be excluded from coverage under Sector O; this industry was never within the scope of the original industrial definition.

Q: Sector P – just what is regulated under this sector?

A: The deciding factor determining coverage under Sector P is whether the facility performs vehicle maintenance (vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, or airport deicing operations.

The transportation category (40 CFR 122.26(b)(viii) – Sector P) *excludes* SIC 4221 to 4225 (4221-Farm Product Warehousing and Storage, 4222-Refrigerated Warehousing and Storage, 4225-General Warehousing and Storage). (**Note:** the USEPA's Sector P Stormwater Fact Sheet Series fails to address this). However, SIC codes 4221 to 4225 *are specifically included* with category (xi), Light Industry *if*: material handling equipment, or activities; raw materials; intermediate products; final products; waste materials; by-products, or; industrial machinery are exposed to stormwater. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate produce, finished product, by-product, or waste product.

Sector P also includes facilities operated by the US Postal Service, but only those facilities where vehicle maintenance, equipment cleaning or de-icing is performed.

Q: Do visual assessments require a Sampling & Analysis Plan?

A: Visual assessments do not require a Sampling & Analysis Plan (SAP).

Visual assessments are a part of the inspection program and should be conducted during or within 30 minutes of a measurable storm event (see Part 4, Inspections). An SAP is only required of facilities that conduct 'analytical monitoring'. No chemical analyses are performed on visual assessments. Documentation requirements for a visual assessment are found in Part 5.4.

Q: Is the use of auto samplers acceptable for visual assessments?

A: The department does not encourage the use of automatic sample collection devices for visual assessments. The permit requires a sample collection within the first 30 minutes of an actual discharge from a storm event (see Part 4.2.1). Therefore, the performance of a visual assessment should be done almost immediately upon sample collection, because the physical and chemical characteristics will change over time that may result in a misinterpretation of sample properties (e.g., clarity, odor, color change, etc.).

However, the operator must also consider site conditions, accessibility, permit requirements, and other factors that will provide representative samples to meet the intent of the permit. If site conditions preclude a prompt visual assessment, the operator must implement procedures to collect the first flush sample and evaluate it as soon as possible (which may include the use of auto samplers). In such cases, the operator must indicate in the Annual Report form the time lapse between sample collection and evaluation, identify the reason(s) for not evaluating the sample within 30 minutes of sample collection, and describe any apparent or suspected changes in the sample due to the delay in evaluating the sample.

Q: Does the permit specify when stormwater discharge monitoring and visual assessments must be done? Is it only during facility operating hours or should it be done for any qualifying storm event regardless of day of the week or time of day or night?

A: The permit is deliberately silent on this point, because it gives more flexibility to permittees. In other words, it's left to the permittee's judgment when to collect a sample. The permit requires 4 visual assessments per year (2X per wet season), 4 benchmark samples in the first year (also 2X per wet season) and any other analytical monitoring at whatever frequency specified. How/ when this is accomplished is up to the permittee. See pp. 31 – 33 of the non-mining fact sheet for a summary of visual requirements.

The only hard and fast requirement is that it must be done when there is a measurable discharge (0.1 inch minimum no longer required), collect within 30 minutes, or note the deviation in the SWPPP.

Q: When is a Sampling and Analysis Plan (SAP) required?

A: An SAP is only required of facilities that conduct 'analytical monitoring' (i.e., benchmark monitoring, effluent limitation guidelines (ELG) monitoring or if ADEQ requires additional discharge monitoring in accordance with Part 6.2.4). An SAP is normally not required for sites that are inactive and unstaffed, because benchmark monitoring is waived. However, if the facility is in a sector that requires ELG monitoring (Sectors A, C, D, E, J, K, L, and O), an SAP must be prepared and maintained with the SWPPP.

Q: What is the relationship of no exposure to a storm-resistant shelter?

A: "Storm-resistant shelter" includes completely roofed and walled buildings or structures, as well as structures with only a top cover but no side coverings, provided material under the structure is not otherwise subject to any run-on and subsequent runoff of stormwater (including snowmelt).

A storm-resistant shelter is not required for (1) drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak; (2) adequately maintained vehicles used in material handling; and (3) final products, other than products that would be mobilized in stormwater discharge.

"No exposure" means that all industrial materials or activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, and/or runoff. Industrial materials or activities include material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, or waste product.

Finally, if the industrial activities and materials at your facility are not exposed to stormwater, because they are protected by a storm-resistant shelter (as described above), then you must obtain a No Exposure Certification for the facility. There are 11 conditions that must be met to be eligible for the no exposure exclusion. Refer to the No Exposure Certification form for the 11 conditions (presented in the form of 11 questions requiring "yes/ no" answers on p. 2 of the form). A fillable PDF version may be downloaded and printed from this link:

<http://www.azdeq.gov/environ/water/permits/download/noexcert.pdf>

Q: Is the No Exposure Certification form transferable to a new facility operator?

A: No. If a new operator takes over your facility, the new operator must complete, sign and submit a new form to claim the no exposure exclusion.

Q: Will a facility qualify for a No Exposure Certification if it has a stormwater retention basin?

A: The presence of a stormwater retention basin is irrelevant to the requirements of No Exposure. Of the 11 conditions cited above, all of them ask about industrial materials or activities exposed to precipitation at the site that must be addressed before being eligible for the no exposure exclusion. None of the questions pertain to the presence or size of any stormwater impoundments, or whether they discharge.

Q: If the industrial activity at my business is not exposed to stormwater, why do I need to pay a fee for a No Exposure Certification?

A: Historically, the state's General Fund paid the entire cost of operating the AZPDES program, with no direct cost to the regulated community. ADEQ's funding sources changed in 2011. Under legislative direction, ADEQ established fees for the AZPDES program (including stormwater permits) with the goal of supporting the program in the absence of the General Fund. Under these fees, the regulated community now pays for only those water quality protection services it uses.

ADEQ incurs costs associated with administering the AZPDES program. The Department's review and approval of the "no-exposure certification" is a water quality protection service under A.A.C. R18-14-101(9). Though not a permit, the \$1,250 fee for the "no exposure certification" is intended to cover the cost of administering this aspect of the program. The fee is less than the lowest annualized five-year permit fee and includes the amount of time spent to process the no-exposure certificate and at least one five-year inspection.

The requirement to re-submit the certification every five years is similar to the requirement to submit a notice of intent for permit coverage when the industrial permit is re-issued on a five-year cycle.

The \$1,250 fee is due at the time of submitting the No Exposure form to the Department. The No Exposure Certification is valid for five years, after which you must re-file with a new fee payment.

Additional information about the ADEQ Water Quality Division permit fees, including FAQs, may be found at this link:

<http://www.azdeq.gov/environ/water/permits/fees.html>

Q: Part 1.1.3(2) (allowable non-stormwater discharges): would disinfection water used for cleaning the potable water tanks on commercial aircraft be considered an allowable non-storm water discharge?

A: Allowable non-stormwater discharges in Part 1.1.3 are essentially de minimis discharges covered by the MSGP 2010. The discharge of disinfection water flushed from potable water tanks onboard aircraft is not an allowable non-stormwater discharge listed in Part 1.1.3(2) of the AZPDES Non-mining MSGP.

Such discharges are not allowed largely because of the volume of water that would be disposed of on a daily basis, making the quantity of pollutants in the disinfected water more than just an insignificant or de minimis amount. This, in turn, has the potential to discharge with stormwater.

ADEQ is aware that some companies perform this flushing monthly. EPA's newly implemented Aircraft Drinking Water Rule apparently requires flushing on average of once per quarter. ADEQ would consider it an acceptable practice to require disposal into the sanitary sewer, but not into the storm drain. Alternatively, if the sanitary sewer is not used, the discharges could be covered by the AZPDES DeMinimis General Permit (DGP).

Q: What SIC code should a facility use when there are multiple activities occurring at the site?

(NPDES Storm Water Program Question and Answer Document Volume 2 (1993) - No. 4)

A: For the purposes of the storm water program, a facility must determine its primary SIC code based on the primary activity occurring at the site. To determine the primary industrial activity, the SIC manual recommends using the value of receipts or revenues. If such information is not available for a particular facility, the number of employees or production rate for each process may be compared. The operation that generates the most revenue or employs the most personnel is the operation in which the facility is primarily engaged.

Q: If the SIC code for the activity in which a facility is primarily engaged is not included in the definition of Stormwater discharge associated with industrial activity, but the facility has a secondary SIC code that is included in the definition, is the facility required to submit an NPDES Stormwater permit application?

(NPDES Storm Water Program Q and A Document Volume 1 (1992) - No. 58)

A: For the purpose of this regulation, a facility's SIC code is determined based on the primary activity taking place at that facility. In the case above, the facility is not required to apply for an NPDES Stormwater permit. However, if the facility conducts an activity on the site identified in the narrative descriptions of categories (i), (iv), (v), (vii), or (x), then the facility would be required to submit an NPDES stormwater permit application for the portions of the facility used for the activities described in those categories.

Q: If a facility's primary SIC code is not listed in the regulations, but an activity that occurs on site is described in one of the narrative categories of industrial activity, does that facility have to apply for a permit?

(NPDES Storm Water Program Question and Answer Document Volume 2 (1993) - No. 6)

A: If a facility conducts an activity on the site identified in the narrative descriptions of categories (i), (iv), (v), (vii), (ix) or (x), then the facility would be required to submit a storm water permit application for discharges from those portions of the facility where the activity occurs. Such narrative activities/facilities include: (i) activities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards; (iv) hazardous waste treatment storage, or disposal facilities including

those that are operating under interim status or a permit under subtitle C of the Resource Conservation and Recovery Act (RCRA); (v) landfills, land application sites and open dumps that receive or have received industrial wastes; (vii) steam electric power generating facilities; (ix) sewage treatment works with a design flow of 1.0 MGD or more; and (x) construction activity disturbing five or more acres of land.